

**West Bountiful City
Planning Commission**

January 28, 2014

Posting of Agenda - The agenda for this meeting was posted on the State of Utah Public Notice website and the West Bountiful City website, and sent to Clipper Publishing Company on January 24, 2014 per state statutory requirement.

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, January 28, 2013, at West Bountiful City Hall, Davis County, Utah.

Those in Attendance:

MEMBERS PRESENT: Chairman Denis Hopkinson, Commissioners Terry Turner, Alan Malan, Mike Cottle, and Laura Charchenko, and Corey Sweat, alternate.

STAFF PRESENT: Ben White (City Engineer), Cathy Brightwell (Deputy Recorder), Steve Doxey (City Attorney), and Debbie McKean (Secretary).

VISITORS: Natalie Hogge, Sandy Herrera, Mark and Yvonne Preece, Gary Jacketta, Mayor Romney, Wayne and Julie Eckman, Ivy Sales, Kelly Enquist, and Ryan Wilson.

The Planning Commission Meeting was called to order at 7:30 p.m. by Chairman. Mike Cottle offered a prayer.

I. Accept Agenda

Chairman Hopkinson reviewed the agenda. Mike Cottle moved to accept the agenda as presented. Alan Malan seconded the motion. Voting was unanimous in favor among members present.

Business Discussed:

II. Public Hearing to discuss possible restrictions for Retail Tobacco Specialty Businesses

ACTION TAKEN:

Laura Charchenko moved to open the public hearing for Retail Tobacco Specialty Businesses at 7:37 p.m. Terry Turner seconded the motion and voting was unanimous in favor.

Chairman Hopkinson invited the public to make comments.

Public Comment:

- Natalie Hogge lives in West Bountiful stated that vapor stores are included in the State's Tobacco language and does not feel that is fair. She believes there is a need for vapor stores. She noted that vapor devices help people to get off of tobacco products. Lots of people enjoy them. She informed the Commission that there will be four (4) businesses in Bountiful that will be shutting down in the next year and that would drive business into West Bountiful. She encourages the city to consider allowing them to do business in West Bountiful.
- Sandy Herrera, owner of Vapor Royale, is desiring to bring her Tobacco Specialty business to West Bountiful. She knows of the concerns they have but assured them that her stores are different from other vapor stores. They follow age restrictions and sell only safe products. She would appreciate the city to consider and support her business. She was willing to give them some impressive income figures.

ACTION TAKEN:

Terry Turner moved to close the public hearing for Retail Tobacco Specialty Businesses at 7:42 p.m. Mike Cottle seconded the motion and voting was unanimous in favor.

III. Public Hearing to consider changes to Title 17 including setbacks, decks, yard obstructions, area and frontage regulations, and height regulations in residential zones.

ACTION TAKEN:

Alan Malan moved to open the public hearing for Title 17 at 7:43 p.m. Laura Charchenko seconded the motion and voting was unanimous in favor.

Chairman Hopkinson briefly introduced the changes in language for Title 17 and welcomed public comment in that regard.

Public Comment:

No public comment was made.

ACTION TAKEN:

Laura Charchenko moved to close the public hearing for Title 17 at 7:44 p.m. Alan Malan seconded the motion and voting was unanimous in favor.

IV. Consider possible restrictions for Retail Tobacco Specialty Businesses

Commissioner packets included a memorandum dated January 24, 2014 from Cathy Brightwell regarding Retail Tobacco Specialty Business Study. Attached was a copy of Chapter 17.28, 17.32, 17.34, 17.36, and 17.40 with proposed redline changes for discussion and a copy of the Utah State Code (2012 10-8-41.6 Regulation of retail tobacco specialty business.

Memorandum included the following information:

- Responsibility for a study regarding Retail Tobacco Specialty Businesses was given to the Planning Commission after the City Council adopted Ordinance 356-13 on December 3, 2013 establishing temporary restrictions regarding land use application.
- Discussions took place at two meetings of the Planning Commission with the unanimous consensus to have staff prepare language that would prohibit these businesses from operating in all zones of the City. A public hearing was set for January 28, 2014.
- A housekeeping clarification has also been included that lists Sexually Oriented Businesses as a permitted use in the L-1 zone and were added to the Prohibited Use section of each of the other zones.

Chairman Hopkinson mentioned the task given the Commission to look at pros and cons of having a Retail Tobacco Specialty Business in West Bountiful. The State has some regulations in their regards. Chairman Hopkinson spoke from a document issued by Davis County Health regarding tobacco uses of various ages in Utah and the percentages of use between tobacco and e-cigarettes. It points out the youth are the ones that are using the product. E-cigarettes are addictive and long term uses and affects of the product are unknown. There are toxins in the product. Chairman Hopkinson noted that there are some health issues that are yet to be determined.

Chairman Hopkinson referred to the State Code and the Ordinances in these regards for each zone that was received in their packet. He invited each Commissioner to voice their comments:

- **Alan Malan** feels with the State Code defining vapor devices as a tobacco product, we would need to allow all tobacco products if the seller so chooses.
- **Steve Doxey** noted that we need to add a reference to the State's definition to our City code in order to be consistent with the State code. Mr. Doxey pointed out that there may not be a place in West Bountiful currently that would legally allow this type of business within our city boundaries. He noted that these products can be sold in convenient stores, but specialty stores are restricted. A specialty store is one that sells over 35 % of a certain type product.
- **Chairman Hopkinson** pointed out that many of our convenient stores already sell e-cigarettes.
- **Cathy Brightwell** asked Mr. Doxey if we have authority to separate e-cigarettes from tobacco products in our city ordinance. Steve Doxey confirmed that we do not have the authority to separate the two.

ACTION TAKEN:

Alan Malan moved to make the noted changes regarding the reference to State code in our definitions and other noted changes then forward the document to City Council for further review and approval. Terry Turner seconded the motion and voting was unanimous in favor.

Chairman Hopkinson directed staff to make the changes and forward them to the City Council. He would like to see the final copy before it is sent to the Council.

V. Consider conditional use application for home occupation business, *Time for Healing*, therapeutic massage located at 701 West 2350 North.

Commissioner packets included a memorandum dated January 24, 2014 from Cathy Brightwell regarding a Conditional Use Permit Application for in home Therapeutic Massage services and a Home Occupation Business License Application from Julie Eckman; *Time for Healing*, signatures from required neighbors, active license from the State, and a site plan of her business area.

Memorandum included the following information:

- Julie Eckman 701 W 2350 North filed a Home Occupation Business License application and Conditional Use Permit application to open a therapeutic massage business in her home.
- She will run the business out of a spare bedroom in her basement. Customers will enter through the front door – there is no separate entrance. Appointments will be scheduled between 1:30 p.m. - 9:30 p.m. Monday through Saturday. Customers will park in the driveway located on the east side of her home. Signatures have been obtained from ten of her neighbors with no objections to her application.
- Staff's Affirmative Findings and Recommendations

Introduction:

Chairman Hopkinson reviewed the documents received for the application and invited Julie Eckman to take the stand. He invited all the Commissioners to voice their comments. No comments were made as all were in approval of this application.

Cathy Brightwell noted that the Chief sometimes has had concerns with massage businesses from home occupations but stated that he approves this one.

ACTION TAKEN:

Mike Cottle moved to approve the Conditional Use permit for Julie Eckman for a therapeutic massage business in her home at 701 West 2350 North, meeting the affirmative findings in 17.60.040.D that the proposed use is desirable to provide a service that will contribute to the general well-being of the neighborhood and community; the proposed use will not be detrimental to the health, safety, or general welfare of persons residing in the vicinity, or injurious to property in the vicinity; the proposed use shall not inordinately impact the streets in the area; and the proposed use will comply with the regulations specified in the R-1-10 zoning ordinance. Laura Charchenko seconded the motion. A friendly amendment was made by Laura Charchenko to include the recommended conditions for the application which include clients will park on the east side of the driveway or directly in front of the property, no external signage will be allowed, and no employees will be allowed. Mike Cottle accepted the friendly amendment and Terry Turner seconded the motion and voting was unanimous in favor.

VI. Consider changes to Title 17- yard regulations including setbacks; decks; yard obstructions; area and frontage regulations; and height regulations in residential zones.

Commissioner's packets included a Zoning Comparison Chart, a draft copy of Chapter 17 changes in the R-1-10, R2-22 and A-1 Zones, and a clean copy showing the changes.

Chairman Hopkinson stated he was pleased with the final product of this document. He addressed Mayor Romney informing him of the language changes to Title 17 that they recommend.

- **Alan Malan** questions the arbor size restrictions in Section H of Yard Regulations. He suggested 5 ft X 5ft so it could be more stable. He does not like the fencing language in H. He believes that it conflicts with our fence ordinance. He noted that an arbor is not bigger than a tree or bush. He does not feel the regulations work out well in reality. He would like language clarified so that it is understood in this ordinance and they don't have to jump to another ordinance to figure it out.
- **Laura Charchenko** agreed with Alan's suggestions/comments.
- **Terry Turner** agreed with Alan's suggestions/comments.
- **Mike Cottle** had no further comments.
- **Corey Sweat** had no comments.
- **Steve Doxey** commented that we do not want to obstruct view too close to the street, but sees the inconsistency. He felt the language could be refined a bit.
- **Chairman Hopkinson** agreed there could be a problem with the language as it is written. He is okay having to refer to the fence coding, but desires all inconsistency be cleared up.

Some discussion took place regarding possible ways to make changes to the current language in "H". It was decided to add language that references "see definitions in Chapter 17" and strike the words "fence and" from language.

ACTION TAKEN:

Alan Malan moved to approve the changes to Title 17 with the additional changes made this evening in section H striking the word "*fence and*" and then send the document to the City Council for review and approval. Laura Charchenko seconded the motion and voting was unanimous in favor.

VII. Staff Report

- Mr. White reported that the owner of Wood Haven Trailer Park has been approached from a developer to buy it out and place apartments there. Ben noted that this would involve a zoning or text change in order to consider the request. This property is in the CG zone. Chairman Hopkinson is concerned with the additional traffic that this would create in this area especially considering its difficult access issues. He requested Ben to inform them of that situation.
- Alan Malan inquired about Holly's Expansion. Mr. White informed him that Holly will be giving a report at City Council on February, 18th. He noted that they have received their permit from the EPA.

- Cathy Brightwell needs disclosure statements from a few. She also informed the Commissioners that Duane Huffman will be coming to the next meeting to do an Open Meetings training.

VIII. Approval of Minutes of dated January 14, 2014

ACTION TAKEN:

Mike Cottle moved to approve of the minutes dated January 14, 2014 as presented. Alan Malan seconded the motion and voting was unanimous in favor among those members present.

VI. Adjournment

ACTION TAKEN:

Alan Malan moved to adjourn the regular session of the Planning Commission meeting. Laura Charchenko seconded the motion. Voting was unanimous in favor. The meeting adjourned at 8:40 p.m.

The foregoing was approved by the West Bountiful Planning Commission by unanimous vote of all members present on Tuesday, February 11, 2014.


Cathy Brightwell – Deputy City Recorder